

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DANNY WILSON,)
Petitioner,)
vs.) Case No. CIV-13-0551-F
JUSTIN JONES,)
Respondent.)

ORDER

Petitioner, a state prisoner, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Doc. no. 1. On October 29, 2013, Magistrate Judge Gary M. Purcell filed a Report and Recommendation, doc. no. 9, recommending that this court determine, contrary to respondent's contention, that petitioner did exhaust his remedies. The Report then goes on to recommend that the petition be denied on its merits. The Report advised the parties of their right to object and that failure to make timely objection to the Report would waive appellate review of the recommended ruling. Neither party filed an objection or asked for an extension of time within which to object.

Upon review, and with no objection having been filed, the court concludes that it agrees with the Magistrate Judge and that no purpose would be served by any further analysis here. The court hereby **ADOPTS, ACCEPTS** and **AFFIRMS** the Report of the Magistrate Judge. Doc. no. 9. The petition for a writ of habeas corpus is **DENIED**.

Petitioner is entitled to a certificate of appealability only upon making a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2).

This standard is satisfied by demonstrating that the issues petitioner seeks to raise are deserving of further proceedings, debatable among jurists of reasons, or subject to different resolution on appeal. *See, Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (“[W]e give the language found in §2253(c) the meaning ascribed it in [Barefoot v. Estelle, 463 U.S. 880, 893 (1983)], with due note for the substitution of the word ‘constitutional.’”). “Where a district court has rejected the constitutional claims on the merits,...[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.* When a prisoner’s habeas petition is dismissed on procedural grounds without reaching the merits of the prisoner’s claims, “a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.*

The petitioner has not made the requisite showing and a certificate of appealability is **DENIED**.

Dated this 27th day of November, 2013.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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